

August 2, 2014

Regional Freedom of Information Officer  
U.S. EPA, Region 3  
1650 Arch Street (3PA00)  
Philadelphia, PA 19103

Re: Freedom of Information Act Request involving EPA ID#: MDD069396711

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (FOIA) of 1966, 5 U.S.C. § 552, and 40 C.F.R. Part 2, I request copies of, and/or the opportunity to inspect, all records in your custody and control, regardless of format, medium, or physical characteristics, and including electronic records and information, audiotapes, videotapes and photographs, regarding the Harbor Point/Honeywell/Allied Chemical/ 1000 Wills Street site (EPA ID#: MDD069396711)<sup>1</sup> (“Harbor Point”) in Baltimore, Maryland, that relate to the following:

1. The review, analysis, comments, revisions, acceptance, and approvals of the Conceptual Development Plans and the Detailed Development Plans, along with the engineering evaluation of the impact of the Improvements and related construction activity on the remedies selected for the site. Such remedies pursuant to the Consent Decree, as amended, in Civil Action Number R-89-1804 include the Performance Standards, the Groundwater Gradient Monitoring Plan, the Surface Water Monitoring Plan, the Environmental Media Monitoring Plan, and the Surface Soil Monitoring Plan, or any other monitoring plan in effect.
2. The qualifications, education, training, and expertise of EPA employees, contractors and consultants who reviewed, commented upon, revised, and approved the Conceptual Development Plans and the Detailed Development Plans, along with the engineering evaluation of the impact of the Improvements and related construction activity on the remedies selected for the site.
3. Notes, memos, minutes, logs, and any other form of internal or external document or communication (including management notes and staff communications) memorializing meetings and conference calls between the Environmental Protection Agency’s Headquarters and Region 3 offices (“EPA”) and the Maryland Department of the

---

<sup>1</sup> Since 1989 this site has been referred to by a variety of names including but not limited to the following: Allied Signal Incorporated, Allied Signal Inc. Baltimore, Honeywell International Incorporated, Honeywell International, Inc. – Baltimore, and Honeywell Baltimore Inner Harbor. Its location has also been described as Block & Wills Streets Baltimore, Maryland 21231 with latitude of 39.28145 and longitude of -76.59743.

Environment (“MDE”) during the period beginning January 1, 2002 to the date of this request.

4. The review, comments, acceptance, and approval of the certification by Peter Deming of Mueser Rutledge Consulting Engineers that the Detailed Design Plan will not: (a) interfere with the efficacy of the corrective measures or Honeywell 's ability to comply with the Performance Standards, the Groundwater Gradient Monitoring Plan, the Surface Water Monitoring Plan, the Environmental Media Monitoring Plan, and the Surface Soil Monitoring Plan, or any other monitoring plan in effect or (b) increase risks to health or the environment from the conditions at the site pursuant to Section V, Paragraph 16 of the Consent Decree.
5. The qualifications, education, training, and expertise of EPA employees, contractors and consultants who reviewed, commented upon, revised, and approved the certification by Peter Deming of Mueser Rutledge Consulting Engineers that the Detailed Design Plan will not: (a) interfere with the efficacy of the corrective measures or Honeywell 's ability to comply with the Performance Standards, the Groundwater Gradient Monitoring Plan, the Surface Water Monitoring Plan, the Environmental Media Monitoring Plan, and the Surface Soil Monitoring Plan, or any other monitoring plan in effect or (b) increase risks to health or the environment from the conditions at the site pursuant to Section V, Paragraph 16 of the Consent Decree.
6. Contain, describe, mention or refer to a list or lists of EPA, Maryland Department of the Environment, Allied Signal Inc., and Honeywell, Inc. Project Coordinators designated pursuant to Section VII of the Consent Decree.
7. Contain, describe, mention or refer to a list or lists of all Supervising Engineers and Independent Engineers designated pursuant to Section VI of the Consent Decree.
8. Contain, describe, mention or refer to a list or lists of EPA employees, contractors, and consultants who were involved with, worked on assignments associated with, or participated in meetings of any kind concerning this site from 1999 to the date of this letter including the Consent Decree’s implementation, monitoring, and oversight.
9. The qualifications, education, training, and expertise of EPA employees, contractors and consultants who were involved with, worked on assignments associated with, or participated in meetings of any kind concerning this site from 1999 to the date of this letter including the Consent Decree’s implementation, monitoring, and oversight.
10. Contain or refer to the review, analysis, comments, revisions, acceptance, and approvals of the Hydraulic Barrier Design Plan pursuant to the Consent Decree, as amended, in Civil Action Number R-89-1804.

11. The qualifications, education, training, and expertise of EPA employees, contractors and consultants who were involved with the review, analysis, comments, revisions, acceptance, and approvals of the Hydraulic Barrier Design Plan pursuant to the Consent Decree, as amended, in Civil Action Number R-89-1804.
12. Contain or refer to the review, analysis, comments, revisions, acceptance, and approvals of the Cap System Corrective Measures Design Plan pursuant to the Consent Decree, as amended, in Civil Action Number R-89-1804.
13. The qualifications, education, training, and expertise of EPA employees, contractors and consultants who were involved with to the review, analysis, comments, revisions, acceptance, and approvals of the Cap System Corrective Measures Design Plan pursuant to the Consent Decree, as amended, in Civil Action Number R-89-1804.
14. Contain or refer to the review, analysis, comments, revisions, acceptance, and approvals of the Multimedia Cap Design Plan pursuant to the Consent Decree, as amended, in Civil Action Number R-89-1804.
15. The qualifications, education, training, and expertise of EPA employees, contractors and consultants who were involved with the review, analysis, comments, revisions, acceptance, and approvals of the Multimedia Cap Design Plan pursuant to the Consent Decree, as amended, in Civil Action Number R-89-1804.
16. Contain or refer to the review, analysis, comments, revisions, acceptance, and approvals of the Soil Cap Design Plan pursuant to the Consent Decree, as amended, in Civil Action Number R-89-1804.
17. The qualifications, education, training, and expertise of EPA employees, contractors and consultants who were involved with to the review, analysis, comments, revisions, acceptance, and approvals of the Soil Cap Design Plan pursuant to the Consent Decree, as amended, in Civil Action Number R-89-1804.
18. EPA's enforcement files from 1990 through the date of this FOIA including but not limited to any stipulated penalties proposed and/or assessed pursuant to the Consent Decree.
19. Contain or refer to any and all violations of surface water and groundwater gradient performance standards including Remedy Failure, verbal and written notifications and reports to the USEPA and MDE, EPA and MDE responses to such notices and reports, notices of disapproval, remedial actions selected by the USEPA and MDE, and proposed

or assessed stipulated penalties for such violations pursuant to Sections V and XII of the Consent Decree.

20. The qualifications, education, training, and expertise of EPA employees, contractors and consultants who were involved with determining, reviewing, proposing, and assessing violations of surface water and groundwater gradient performance standards including Remedy Failure, verbal and written notifications and reports to the USEPA and MDE, EPA and MDE responses to such notices and reports, notices of disapproval, remedial actions selected by the USEPA and MDE, and proposed or assessed stipulated penalties for such violations pursuant to Sections V and XII of the Consent Decree
21. Contain or refer to any and all instances where the EPA and/or MDE Project Coordinators stopped work at Harbor Point because employees, agents, and/or contractors of Allied Signal Inc., Honeywell, Inc., Harbor Point Development, LLC or SBER Harbor Point LLC caused a release or threatened release of hazardous waste or hazardous waste constituents that threatened or posed a threat to the public health or to the environment under Section VII of the Consent Decree.
22. Contain or refer to the discovery of any defects, abnormalities or problems related to Remedial Components and/or Monitoring Program and the requirement to notify EPA and MDE Project Coordinators as described in Section IV.18.b of the 2003 Agreement and Covenant Not to Sue SBER Harbor Point LLC and Harbor Point Development, LLC (Docket No.: RCRA-03-2003-0088TH).
23. Contain or refer to the payment of stipulated penalties as described in Section X of the 2003 Agreement and Covenant Not to Sue SBER Harbor Point LLC and Harbor Point Development, LLC (Docket No.: RCRA-03-2003-0088TH).
24. MDE organization charts and staffing rosters from 1986 to the date of this request.

I also note that federal courts have held that any record exchanged between a federal government agency and another party cannot be withheld under Exemption 5 of the FOIA. *See* 5 U.S.C. §552(b)(5) (2009); *see also Mead Data Cent. Inc. v. Dep't of the Air Force*, 556 F.2d 242, 253 (D.C. Cir. 1977); *Senate of Puerto Rico v. Dep't of Justice*, 823 F.2d 574, 587 (D.C. Cir. 1987); *Dep't of Interior v. Klamath Water Users Protective Assn.*, 532 U.S. 1, 1 (2001) (Exemption 5 applies to "inter-agency or intra-agency" communication). Further, any comments from or to other agencies on the environmental impact of any activities may not be withheld as interagency documents. *See* 40 C.F.R. §1506.6(f) (2009).

I request that EPA identify and produce all responsive records from any EPA offices (including Headquarters) where such records may be found. Please note that JACOBS STOTSKY PLLC has filed several other FOIA requests concerning Harbor Point. Please call me at the below number to discuss any aspect of my request.

If all or any part of this request is denied, I request that I be provided with a written statement of the grounds for the denial. If you determine that some portions of the requested records are exempt from disclosure, please provide me with the portions that can be disclosed.

I request that responsive records be released as soon as they are available. To the extent that some subset of the requested records is readily available, I would be happy to receive them while EPA searches for other records. Please note that if it is more convenient for the agency, I would be happy to accept copies of the requested records in electronic format (on a thumb drive, for example).

In order to help to determine my status for purposes of determining the applicability of any fees, you should know that I am a law firm. Please advise me as to the cost, if any, for inspecting the records described above. I anticipate that I will want copies of some or all of the records sought and am willing to pay fees for this request up to a maximum of \$100. If you estimate that the fees will exceed this limit, please inform me first and provide a written estimate of assessable fees. If you have adopted a fee schedule for obtaining copies of records and other rules or regulations implementing the Act, please send me a copy.

I look forward to receiving disclosable records promptly and, in any event, to a decision about all of the requested records within 30 days. Thank you for prompt attention in responding to this request.

Sincerely,

JACOBS STOTSKY PLLC



---

By: Jon D. Jacobs  
1629 K Street, NW, Ste. 300  
Washington, D.C. 20006  
(202) 508-3886